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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,572	04/21/2004	Steven A. McAuley	1001.1704101	5285
28075 7590 01/03/2007 CROMPTON, SEAGER & TUFTE, LLC 1221 NICOLLET AVENUE SUITE 800 MINNEAPOLIS, MN 55403-2420			EXAMINER BOUCHELLE, LAURA A	
			ART UNIT	PAPER NUMBER
			3763	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/03/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/828,572

Applicant(s)

MCAULEY ET AL.

Examiner

Laura A. Bouchelle

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-20 and 22-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-20 and 22-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 9-11, 13, 14, 22-24, 25-27, 29-32, 33, 34, 35, 36-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Halevy (US 6663589). Halevy discloses a catheter having a shaft 210, an inflation lumen 212. Guidewire lumen 216, a balloon 220, and a traction member 260. See Fig. 3. The distal end of the traction member is attached to the shaft, and the proximal end is free. The traction member has a gripping surface (Col. 7, lines 55-58). The steps of providing these structural features are inherently disclosed. Halevy further discloses the steps of inserting the catheter adjacent the treatment site and inflating the balloon to secure the balloon in the lumen (Col. 5, lines 45-48).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 3, 4, 7, 15, 16, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halevy in view of Bradshaw (US 6450988). Claims 2, 3, 4, 7, 15, 16, 17, 20 differ from the Halevy in calling for the gripping surface to be defined by bumps, a helical region, a ridge, or undulations. Bradshaw discloses a balloon catheter, wherein the balloon comprises a region of helical lobes 26 with protruding knobs 30 that engage the vessel wall to prevent the balloon from becoming dislodged from the site within the vessel (Col. 4, lines 40-47). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the gripping member of Halevy to be of a helical shape or have bumps as taught by Bradshaw so that the member can engage the wall of the vessel to prevent the balloon from becoming dislodged.

5. Claims 4, 5, 6, 17, 18, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halevy in view of Grayzel et al (US 2002/0010489). Claims 4, 5, 6, 17, 18, 19 differ from the Halevy in calling for the gripping surface to be defined by a ridge along the body portion, saw tooth projections or spikes. Grayzel discloses a balloon catheter comprising gripping member in the shape of a ridge 46 or alternatively in the shape of saw tooth projections 500 or spikes. See Figs. 2 and 9G. These configurations engage the target lumen as the balloon expands to retain the balloon in the lumen (Page 4, paragraph 0053). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the gripping surfaces of Halevy to

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be either a ridge, saw tooth projections, or spikes as taught by Grayzel to retain the balloon in the lumen.

6. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Halevy in view of Hart et al (US 6626861). Claim 28 differs from Halevy in calling for the proximal end of the traction member to be coupled to the shaft. Hart teaches a balloon catheter having a traction member having a proximal end 38 that is coupled to the shaft 12 to ensure a structurally secure connection (Col. 6, lines 64-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Halevy to have the proximal end of the traction member coupled to the shaft as taught by Hart to ensure a structurally secure connection.

Response to Arguments

7. Applicant's arguments filed 10/5/2006 have been fully considered but they are not persuasive.

8. Applicant argues that in the current invention, the traction member, not the balloon, includes the gripping surface. Examiner is using the surface features of the balloons of the prior art references to teach that those surface features are known in the art as a way to engage the lumen wall and secure the balloon in place, whether on a traction member or the surface of the balloon itself.

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Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A. Bouchelle whose telephone number is 571-272-2125. The examiner can normally be reached on Monday-Friday 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 517-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Laura A Bouchelle
Examiner
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